Mossel Bay Municipality

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SUPPLY CHAIN MANAGEMENT POLICY

2018 - 2019

Mossel Bay Municipality

SUPPLY CHAIN MANAGEMENT POLICY

This policy was adopted by the Municipality of Mossel Bay through Town Council Resolution E59-09/2005 in terms of Section 111 of the Municipal Finance Management Act, No 56 of 2003 and amended through Council Resolutions E28-05/2009, E61-05/2010, E160-12/2010, E68-05/2011, E04-01/2012, E97-05/2012, E74-05/2013, E60-05/2014, E71-05/2015,E89-05/2016 and E88-05-2017. This policy super cedes all other procurement policies previously in force at the Municipality.

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1. DEFINITIONS

In this Policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act, No 56 of 2003, has the same meaning as in the Act, and -

"Accounting Officer" in relation to a Municipality means the municipal manager as escribed in Section 60 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

"B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

"B-BBEE status level of contributor" means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act:

"Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)

"commercial value" in relation to the sale or leasing of land or property relates to land or property which has a commercial value and can be sold or sub-let on a stand-alone basis and excludes small pockets of land such as small alley ways, erven or annexures which are only of value in relation to the adjoining properties or structures**.**

"Competitive bidding process" means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

"Consultants" mean consulting firms, engineering firms, legal firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organisations, investment and merchant banks, universities, research agencies, government agencies, non-governmental (NGO's) and individuals.

"Competitive bid" means a bid in terms of a competitive bidding process;

"Designated sector" means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a) of the Preferential Procurement Regulations,2017

"Emergency" means a serious, unexpected, unforeseen and potentially dangerous and damaging situation requiring immediate action and which is not due to a lack of planning.

“Final award” in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

“Formal written quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

“In the service of the State” means to be -

(a) a member of –
(i) any municipal council;
(ii) (any provincial legislature; or
(iii) the National Assembly or the National Council of Provinces;
(b) a member of the board of directors of any municipal entity;
(c) an official of any Municipality or municipal entity;
(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
(e) an executive member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature;

“Long-term contract” means a contract with a duration period exceeding one year;

“List of accredited prospective providers” means the list of accredited prospective providers which a Municipality or municipal entity must keep in terms of paragraph 14 of this Policy;

"Municipality" means the Municipality of Mossel Bay

"Municipal Systems Act" means the Local Government: Municipal Systems Act, No 32 of 2000.

“National Treasury” means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 55 of 1998)

“Obtain” means to come into possession of; get, acquire, or procure, as through an effort or by a request

“**Organ of the state**” means –

(a) Any department of state or administration in the national, provincial or local sphere of government; or

(b) Any other functionary or institution

  (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution;

  (ii) exercising a public power or performing a public function in terms of any legislation but does not include a court or judicial officer.

“**Other applicable legislation**” means any other legislation applicable to municipal supply chain management, including -

(a) the Preferential Procurement Policy Framework Act, Act No. 5 of 2000;

(b) the Construction Industry Development Board Act, Act No. 38 of 2000;

”**Procurement**” is the acquisition of goods

"Provincial Treasury" means the Treasury of the Western Cape Province.

“**Plight of the poor**” means the plight of a group of people or a section of a community where the majority of the households in a specific area qualify as indigent or poor in terms of the Municipality Consumer Care, Credit Control and Debt Collection Policy.

“**PPPFA**” means the Preferential Procurement Policy Framework Act, No 5 of 2000.

“**Price**” includes all applicable taxes less all unconditional discounts;

”**Regulations**” means the Local Government: Municipal Finance Management Act, 2003: Supply Chain Management Regulations (Notice 868 of 2000).

"Senior Manager" means a manager in the employment of the Mossel Bay Municipality who heads a directorate or sub-directorate or who reports to the municipal manager or a director or the head of a sub-directorate of the Municipality**;**

“**Sole providers**” can be broadly defined as manufacturers, licence holders, publishers, intellectual property holders or service providers appointed by a sole provider as their sole agent or distributor in a specific area;

“Stipulated minimum threshold” means the minimum threshold stipulated in terms of the Preferential Procurement Regulation 2017 8(1)(b)

“Treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

“The Act” means the Local Government: Municipal Finance Management Act, No 56 of 2003;

“Written quotations” means quotations referred to in paragraph 12(1) (b) of this Policy.

CHAPTER 1 - ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

(1) The **MUNICIPALITY OF MOSSEL BAY** has resolved in terms of Section 111 of the Municipal Finance Management Act, No 56 of 2003, to have and implement a Supply Chain Management Policy that:

(a) gives effect to –
  (i) section 217 of the Constitution; and
  (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with -
  (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
  (ii) any minimum norms and standards that may be prescribed in terms of Section 168 of the Act;

(d) is consistent with other applicable, including but not limited to the following legislation:

- The Constitution of South Africa, Act 108 of 1996
- Municipal Finance Management Act, Act 56 of 2003
- Preferential Procurement Policy Framework Act, Act 5 of 2000
- Promotion of Administrative Justice Act, Act 3 of 2000
- Promotion of Access to Information Act, Act 2 of 2000
- Construction Industry Development Board Act, Act 38 of 2000
- Competition Act, Act 89 of 1998
- The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004
- State Information Technology Act, Act 88 of 1998
- Broad-Based Black Economic Empowerment Act, Act 53 of 2003

(e) does not undermine the objective for uniformity in supply chain management systems between organs of State in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(g) assigns responsibility for the implementation of the policy to the Accounting Officer of the Municipality

(h) in the absence of the Accounting Officer or if the Accounting Officer is impeded from doing his/her work assigns the responsibility for the implementation of the policy to the person acting in his stead or, alternatively, the Chief Financial Officer, subject to Sections 5(2) and 5(4) of the SCM Regulations.

(2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when -
(a) procuring goods or services;
(b) disposing of goods no longer needed or which have become redundant;
(c) disposing or letting of fixed assets, including land, of proven commercial value no longer required for basic municipal service delivery purposes, subject to Sections 14 and 90 of the Act;
(d) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
(e) selecting external mechanisms referred to in Section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in Section 83 of that Act.

(3) Subparagraphs (1) and (2) of this Policy do not apply in the circumstances described in Section 110 (2) of the Act, except where specifically provided otherwise in this Policy.

3. ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

(1) The Accounting Officer must -
(a) at least annually review this Policy and its implementation; and
(b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

(2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the Accounting Officer must -

(a) Ensure that such proposed amendments comply with the Regulations;

(b) Report any deviation from this Policy to the National Treasury and the relevant Provincial Treasury.

(3) When amending this Supply Chain Management Policy, the need for uniformity in supply chain practices, procedures and forms between organs of State in all spheres, particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account.

(4) The Accounting Officer must, in terms of section 62(1) (f) (iv) of the Act, take all reasonable steps to ensure that the Municipality has and implements this Supply Chain Management Policy.

4. DELEGATION TO SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

(1) The authority and power to create a Supply Chain Management Unit within the Policy framework of Council, with such support structures as may be necessary to give effect to the provisions of this Policy and legislation, is granted to the Accounting Officer in terms of Sections 79, 106 and 115 of the Act and Section 66 of the Municipal Systems Act.

(a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of -

(i) Chapter 8 or 10 of the Act; and

(ii) the Supply Chain Management Policy;

(b) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management Policy; and

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the Supply Chain Management Policy;

(2) The Accounting Officer has the delegated power to formulate such operational policies and procedures as may be necessary to give effect to the intentions of this Policy and enabling legislation. He/she may delegate his/her powers in writing to a member of the municipality's top management referred to in section 77 of the Act or any other official in terms of Section 79 of the Act in regard to supply chain management activities.

(3) The Council or Accounting Officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality;

(4) Paragraph 4 (3) may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. SUB-DELEGATIONS

(1) The Accounting Officer may, in terms of Section 79 of the Act, sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph 5 (2) and paragraph 4 of this Policy.

(2) The power to make a final award -

(a) above R10 million (VAT included) may not be sub-delegated by the Accounting Officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to -
  (i) the Chief Financial Officer;
  (ii) a Senior Manager; or
  (iii) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member; or

(c) not exceeding R2 million (VAT included) may be sub-delegated but only to -
  (i) the Chief Financial Officer;
  (ii) a Senior Manager;
  (iii) a Manager directly accountable to the Chief Financial Officer or a Senior Manager; or
  (iv) a Bid Adjudication Committee.

(3) An official or Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with subparagraph 4(2) of this Policy, must within five working days of the end of each month, submit to the official referred to in subparagraph 4 of this Policy a written report containing particulars of each final award made by such official or committee during that month, including -
  (a) the amount of the award;
  (b) the name of the person to whom the award was made; and
  (c) the reason why the award was made to that person.
  (d) the status of the supplier’s level of contribution.

(4) A written report referred to in subparagraph 5(3) of this Policy must be submitted –
  (a) to the Accounting Officer, in the case of an award by -
    (i) the chief financial officer;
    (ii) a senior manager;
    (iii) a manager referred to in subparagraph 5(2)(c)(iii) of this Policy; or
    (iv) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is not a member.

  (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    (i) a manager referred to in subparagraph 5(2)(c); or
    (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

(5) Subparagraph 5(3) and 5(4) of this Policy do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL

(1) The Council must maintain oversight over the implementation of this Supply Chain Management Policy.

(2) For the purposes of such oversight the Accounting Officer must -

  (i) within 30 days of the end of each financial year, submit a report on the implementation of the Supply Chain Management Policy of the Municipality and of any municipal entity under its sole or shared control, to the Council of the Municipality; and

  (ii) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the Council.

(3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.

(4) The reports referred to in paragraph 6(2) must be made public in accordance with Section 21A of the Municipal Systems Act, No 32 of 2000.

(5) No Councillor of the Municipality may be a member of any municipal bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer.

7. SUPPLY CHAIN MANAGEMENT UNIT

(1) The Accounting Officer must establish a Supply Chain Management Unit and determine the terms of reference of the Unit to implement this Supply Chain Management Policy

(2) The Supply Chain Management Unit shall operate as a centralised supply chain management function to administer and co-ordinate all the supply chain management activities and functions of the Municipality as described in this Policy unless a function or activity is specifically excluded by the Accounting Officer from the Unit's terms of reference.

(3) The Supply Chain Management Unit will operate under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of Section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

The training of officials involved in implementing the Supply Chain Management Policy will be in accordance with any Treasury guidelines on supply chain management training as well as the Municipal Regulations on Minimum Competency Levels, GN493 of 15 June 2007.

CHAPTER 2 - FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

9. FORMAT OF SUPPLY CHAIN MANAGEMENT

This Supply Chain Management Policy provides systems for -

Part 1
(i) Demand management
Part 2
(ii) Acquisition management
Part 3
(iii) Logistics management
(iv) Disposal management
(v) Risk management
(vi) Performance management

PART 1

DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

(1) The Accounting Officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

(2) The demand management system must –

- (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

(b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

(c) provide for the compilation of the required specifications to ensure that its needs are met.

(3) Demand management should be co-ordinated by SCM officials in consultation with the end users and must form part of the strategic planning exercise.

(4) Procurement plans for all tenders must be developed to be implemented by the SCM Unit. This plan should indicate the following:

(a) description of the goods, works or service
(b) the end user
(c) the contact person representing the end-user
(d) estimated value
(e) date of submission of specifications
(f) date of advertisement of the bid
(g) estimated evaluation time
(h) envisaged date of the Bid Adjudication Committee meeting
(i) envisaged date of the Accounting Officer approval (for all procurement above R10 million)
(j) envisaged date of issuance of an official order.

(5) For all tenders a bid register for the management of the procurement process for each requirement should be compiled.

(6) The procurement plan should on a continuous basis be assessed and updated if required.

PART 2

ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

(1) The Accounting Officer must establish, though operational procedures, an effective system of acquisition management in order to ensure -

(a) that goods and services are procured by the Municipality in accordance with authorised processes only;

(b) that expenditure on goods and services is incurred in terms of an approved budget in terms of Section 15 of the Act;

(c) that the threshold values for the different procurement processes are complied with;

(d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

(e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) This Supply Chain Management Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in Section 110(2) of the Act, including -

(a) water from the Department of Water Affairs or a public entity, another Municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another Municipality or a municipal entity.

(3) The following information must be made public wherever goods or services contemplated in Section 110(2) of the Act are procured other than through the Supply Chain Management system -

(a) the kind of goods or services; and

(b) the name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

(1) The procurement of goods and services through this Policy is provided by way of -

(a) petty cash purchases, up to a transaction value of R300, (VAT included), subject to the right of the Accounting Officer to increase the limit for petty cash purposes to R2 000 (VAT included).

(b) written quotations for procurements of a transaction value exceeding R300, including VAT and up to R30 000, including VAT.

(c) formal written quotations for procurements of a transaction value exceeding R30 000 and up to R200 000 (VAT included); and

(d) a competitive bidding process for-

(i) procurement above a transaction value of R200 000 (VAT included); and

(ii) the procurement of long-term contracts.

(2) The Accounting Officer may, in writing; -

(a) lower, but not increase, the different threshold values specified in subparagraph 12 (1); or

(b) direct that -
  (i) quotations be obtained as per the Municipality's Expenditure Policy for any specific procurement of a transaction value lower than R300 (VAT included);
  (ii) written quotations be obtained for any specific procurement of a transaction value lower than R30 000 (VAT included); or
  (iii) formal written quotations be obtained for any specific procurement of a transaction value exceeding R30 000 (VAT included) up to R200 000 (VAT included).
  (iv) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (VAT included).

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the Policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

(4) The preferential point system as prescribed by the PPPFA and its Regulations shall apply to all procurement equal to or above R30 000 (VAT included).

13. GENERAL CONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS, FORMAL WRITTEN QUOTATIONS AND TENDERS

A written quotation, formal written quotation or tender may not be considered unless the provider who submitted the quotation, formal written quotation or tender -

(1) has furnished that provider's -
  (a) full name;
  (b) identification number or company or other registration number; and
  (c) tax reference number and VAT registration number, if any;

(2) has indicated -
  (a) whether he or she is in the service of the State, or has been in the service of the State in the previous twelve months;
  (b) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the State, or has been in the service of the State in the previous twelve months; or

(c) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the State, or has been in the service of the State in the previous twelve months.

(3) In the case of formal written quotations and tenders, that is transactions exceeding R30 000, including VAT:

(a) a valid original Tax Clearance Certificate or a copy of the Tax Verification Pin must accompany the bid documents unless the bidder is registered on the Accredited Supplier Database the Municipality use and the Municipality has a valid original Tax Clearance Certificate for the bidder there on record. The onus is on the bidder to ensure that the Municipality has a valid original Tax Clearance Certificate on record. If the South African Revenue Services (SARS) cannot provide a valid original Tax Clearance Certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order.

(b) If the bid of the preferred bidder is not supported by a valid original Tax Clearance Certificate or Tax Verification Pin, either as an attachment to the bid documents or on record in the case of suppliers registered on the Supplier Database the Municipality use, the Municipality reserves the right to obtain such document, within a time as specified by the Municipality, after the closing date to verify that the bidder's tax matters are in order. If no such document can be obtained, the bid will be disqualified;

(c) A copy of the bidder's municipal account (for the Municipality where the bidder pays his account) for the month preceding the quotation closure date must accompany the quotation documents. If such a copy does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such documents (including sworn affidavits) after the closing date to verify that their municipal accounts are in order;

(d) No bid will be awarded to any bidder which is or whose directors are in arrears for more than three months with their municipal rates and taxes or municipal charges due to any Municipality or any of its entities. If a bidder rents their premises, proof must be submitted that the rental includes their municipal rates and taxes or municipal charges and that their rent is not in arrears.

(e) B-BBEE Certificates or Sworn Affidavits must be a valid original or copy of the original and must comply with the minimum validation criteria as set out by National

Treasury. However, in the case where a bidder did not submit a B-BBEE Certificate at the closing date and time of the bid, the bidder could be requested to submit the original or copy of the original within a specified period of time. If the required certificate is submitted within the specified time, and the certificate complies this the requirements set by National Treasury, the bidder may be awarded the points that they qualify for. If the certificate submitted is no longer valid no additional request or validations will be done.

14. LIST OF ACCREDITED PROSPECTIVE PROVIDERS

(1) The Accounting Officer must utilise the list of accredited prospective providers of goods and services for the procurement requirements for the Municipality through written quotations and formal written quotations.

15. PETTY CASH PURCHASES

(1) The following shall be applicable to all purchases not exceeding R300, including VAT, or such amount up to R2 000 (VAT included) as determined by the Accounting Officer in terms of this Policy, or such other amount as may be legislated from time to time.

(2) Conditions for petty cash purchases -

- (a) Only officials duly delegated to authorise requisitions and certify invoices for payments may authorise the request for petty cash and authorise the expenditure incurred through petty cash transactions;
- (b) Each Senior Manager is only allowed a maximum of 60 petty cash transactions per month;
- (c) No request for petty cash transactions may be lodged for items that is held as inventory in the municipal stores; and
- (d) Only one quotation has to be obtained when procuring goods or services to a value of less than the petty cash threshold.

(3) Procedures to be followed in respect of petty cash transactions –

- (a) A register of numbered vouchers must be kept by the official responsible for petty cash;
- (b) A proper voucher with full details of expenditure must be submitted;
- (c) The voucher must be signed by the official making the payment as well as the official that rendered the payment for purchases;

(d) All vouchers must be signed by a duly authorised official for the relevant department;

(e) A proper register as determined by the Manager: Supply Chain Management must be maintained;

(f) Reconciliation reports and supplement to the petty cash advance must be done on a regular basis;

(g) Reconciliation reports must be verified and signed off by the Manager: Supply Chain Management before a cheque is issued by the Expenditure Department to supplement the petty cash advance.

16. WRITTEN QUOTATIONS

(1) The Accounting Officer must establish the conditions for the procurement of goods or services through written quotations for requirements exceeding the petty cash threshold up to R30 000 (VAT included), which must include conditions stating:

(a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited supplier database utilised by the Municipality;

(b) that quotations may be obtained from providers who are not listed on the Accredited Supplier Database the Municipality use, provided that such providers meet the required listing criteria of the accredited supplier database;

(c) that providers must be requested to submit such quotation in writing;

(d) that if it is not possible to obtain at least three quotations or formal written quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and

(e) that the Accounting Officer must record the names of the potential providers and their written quotations.

(2) The preferential point system as prescribed by the PPPFA and its Regulations shall apply to all procurement above R30 000 (VAT included).

(3) A designated official must within three working days of the end of each month report to the Chief Financial Officer on any approvals, in terms of par. (1) (d), given during that month.

17. PROCEDURES FOR PROCURING GOODS/SERVICES THROUGH WRITTEN QUOTATIONS

When goods or services are procured through written quotations the following will apply –

(1) when using the accredited supplier database the ongoing competition amongst providers must be promoted, including by inviting providers to submit quotations on a rotation basis;

(2) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price. The preferential point system may be applied to procurement less that R30 000 (VAT included) if and when deemed appropriate;

(3) all reasonable steps must be taken to ensure that the procurement of goods and services through written quotations is not abused;

(4) the Accounting Officer or his/her delegated authority must, on a monthly basis, be notified in writing of all written quotations accepted by an official acting in terms of a sub-delegation;

18. PROCEDURES FOR PROCURING GOODS/SERVICES THROUGH FORMAL WRITTEN QUOTATIONS

When goods or services are procured through formal written quotations the following will apply –

(1) all requirements in excess of R30 000 up to R200 000 (VAT included) that are to be procured by means of formal written quotations must, in addition to the requirements of paragraph 16, be advertised for at least seven (7) days on the website and an official notice board of the Municipality;

(2) offers received must be evaluated on a comparative basis taking into account unconditional discounts;

(3) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

(4) all reasonable steps must be taken to ensure that the procurement of goods and services through formal written quotations is not abused;

(5) the Accounting Officer or his/her delegated authority must, on a monthly basis, be notified in writing of all formal written quotations accepted by an official acting in terms of a sub-delegation;

(6) proper records of all bid documents and related correspondence must be kept; and

(7) a lockable safe tender box must be kept at the main municipal buildings in which quotations and/or tender or bid documents can be deposited 24 hours a day, seven days a week.

19. COMPETITIVE BIDDING PROCESS

(1) Goods or services above a transaction value of R200 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy; and

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

(3) The following information must be submitted by the senior manager responsible for the Vote to the Chief Financial Officer prior to the public advertisement of any bids in excess of R10 million (VAT included):

(a) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;

(b) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs;

- (c) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.

(4) Contracts above the value of R10 million (VAT included) may only be awarded to the preferred bidder after the Chief Financial Officer or his/her delegate has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan. This concent may be granted after the bids is received.

20. PROCEDURE FOR COMPETITIVE BIDDING

The Accounting Officer must establish procedures for the competitive bidding process for each of the following stages:

(1) the compilation of bidding documentation;
(2) the public invitation of bids;
(3) site meetings or briefing sessions, if applicable;
(4) the handling of bids submitted in response to public invitation;
(5) the evaluation of bids;
(6) the award of contracts;
(7) the administration of contracts; and
(8) proper record keeping.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

The Municipality's bid documentation must, in addition to the requirements stated in paragraph 13 of this Policy –

(1) Take into account -
    (a) the general conditions of contract and any special conditions of contract, if specified;
    (b) any objective criteria the municipality intends to apply in terms of section 2(1)(f) of the Preferential Procurement Act. Such objective criteria must be stipulated in the tender document
    (c) any Treasury guidelines on bid documentation; and

- (d) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (e) Local production and Content requirements.

(2) Include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(3) Include the preferential procurement system that will be used in the evaluation of the bids. If it is unclear which preference point system will be applicable that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

(4) If compulsory subcontracting is applicable;

(5) Compel bidders to declare any conflict of interest they may have in the transaction for which the tender is submitted;

(6) Compel bidders to complete and submit the Certificate of Independent Bid Determination;

(7) Compel bidders to declare their previous supply chain management practices and state whether or not they

- (a) have been found guilty by a Court of Law or a structure established by Council or the Accounting Officer for handling alleged abuses of the Municipality or the municipal entity's supply chain management system or committed any improper conduct in relation to such a system.
- (b) have been convicted for fraud or corruption during the past five years
- (c) have wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years
- (d) have been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act, No 12 of 2004.

(8) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish -

- (a) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
  - (i) for the past three years; or
  - (ii) since their establishment if established during the past three years;

(b) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 days;

(c) particulars of any contracts awarded to the bidder by an organ of State during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic; and

(9) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African Court of Law.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

The Accounting Officer must determine the procedure for the invitation of competitive bids, which must stipulate that:

(1) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Municipality or any other appropriate way (which may include an advertisement in the Government Tender Bulletin); and on the eTender Publication Portal

(a) The information contained in a public advertisement, must include -

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph 22(3) of this Policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality; and

(iii) In the case of designated sectors, where in the award of bids Local Production and Content is applicable, advertise such bids with a specific condition that only locally produced goods, services or work or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

(2) The Accounting Officer or his delegate may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed and must be clearly marked. Unsealed and/or unmarked bids will not be accepted and will be returned to the bidder.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies. The bidder must declare, in writing, that the electronic format contains the exact same information as the hard copy.

(5) Goods, services and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project.

23. PROCEDURE FOR HANDLING SITE MEETINGS, INFORMATION OR BRIEFING SESSIONS

(1) Bid documentation should indicate whether a site meeting, information or briefing session is compulsory or not.

(2) The address and time where the meeting or session will take place as well as the contact person with contact details should be stipulated.

(3) Prospective bidders that arrive within 15 (fifteen) minutes of the advertised time the meeting started will not be allowed to attend the meeting or to sign the attendance register unless the person chairing the meeting give permission to do so. Reasons for the chairperson's decision must be duly minuted.

(4) Prospective bidders that arrive within 15 (fifteen) minutes after the advertised time of the meeting started, but before the completion of the meeting will be allowed to sign the attendance register of the meeting.

(5) Prospective bidders that arrive after 15 (fifteen) minutes after the advertised time the meeting started will not be allowed to attend the meeting and sign the attendance register.

(6) If the value of the bid is to be more than R10 million and a prospective bidder is delayed due to unforseen circumstances, he/she must contact the contact person or chairperson before the meeting commence and inform him/her of the delay and state the reasons for the delay and will only be allowed to attend the meeting if the chairperson of the meeting give permission to do so. Reasons for the chairperson's decision must be duly minuted.

(7) An attendance register must be completed at all meetings or sessions.

(8) Minutes must be kept at all meetings or sessions and be distributed to all attendees.

(9) Any additional information, clarifications, correction of errors or modifications to the bid documents must be distributed to all attendees in sufficient time before the closing date and time of the bid to enable bidders to take appropriate action if necessary.

24. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

(1) The Accounting Officer must determine the procedure for the handling, opening and recording of bids, which must stipulate that

(a) bids

(i) must be opened only in public;

(ii) must be opened simultaneously and as soon as possible after the period for the submission of bids has expired; and

(iii) received after the closing time should not be considered and must be returned.

(b) any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical as well as subject to confidentiality or competitive considerations, also each bidder's total bidding price;

(c) bids that are received after the closing time will be marked late with an official stamp with the time at which it was received. The bidder will be notified of the action and the bid returned;

(d) only bids that have been placed in the Municipality's tender box or received and recorded at the Municipality's documentation centre will be regarded as having been received on time;

(e) Bids that are received late will not be considered.

(f) Unsealed bids will not be accepted and will be returned to the bidder.

(g) a register must be kept in which all bids received in time are recorded;

(i) the register must reflect the bid closing date, date and time of opening the bids, name and title of persons opening the bids together with their signatures and an indication as to whether any late submissions were received;
(ii) the register must be signed by the user department in evidence of receiving the bid documents;
(iii) the register must be available for public inspection; and

(2) After the closure of any advertised competitive bid the Municipality must, further to information to be published in terms of Section 75 of the MFMA, publish on its website, the reference number of the bid, the description of the goods, services or infrastructure project, names of all bidders, the B-BBEE status level of contribution of all bidders, where applicable, the local content percentages of the goods offered and where practical, total price of the bids, by all bidders that submitted bids in relation to that particular advertisement.

(3) The municipality must publish the aforementioned information within ten (10) working days after closure of the bid and it must remain on the website of the municipality for at least thirty (30) days.

25. NEGOTIATIONS WITH PREFERRED BIDDERS

(1) The Accounting Officer or his delegate may negotiate the final terms of a contract with bidders identified through a bidding process as preferred bidders, provided that such negotiation -
(a) do not allow any preferred bidder a second or unfair opportunity;
(b) are not to the detriment of any other bidder; and

(c) do not lead to a higher price (or a lower price in terms of an income generating bid) than the bid as submitted.

(2) The Accounting Officer or his delegate may negotiate for market related prices, if all else fail this may lead to cancelation of the bid.

(3) Minutes of such negotiations must be kept for record purposes.

26. TWO-STAGE BIDDING PROCESS

(1) A two-stage bidding process is allowed for -
  (a) large complex projects;
  (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
  (c) long-term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

27. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

(1) The Accounting Officer is required to -
  (a) establish a committee system for competitive bids consisting of at least a -
    (i) Bid Specification Committee;
    (ii) Bid Evaluation Committee; and
    (iii) Bid Adjudication Committee;

  (b) appoint the members of the Bid Adjudication Committee, taking into account Section 117 of the Act; and

  (c) delegate the authority to appoint members of the other committees on an ad hoc basis to a senior manager as defined in paragraph 1 of this Policy.

(d) provide for an attendance or oversight process by a neutral or independent observer, appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.

(2) The committee system must be consistent with -

(a) paragraphs 28, 29 and 30 of this Policy; and
(b) any other applicable legislation.

(3) The Accounting Officer may apply the committee system to formal written quotations.

(4) All Committee proceedings must be duly minuted and attendance registers personally signed by all those present. These records must be filed with all other documentation relating to the relevant bid or quotation.

28. BID SPECIFICATION COMMITTEES

(1) The Accounting Officer or his/her delegate must appoint a Bid Specification Committee on an ad hoc basis to compile the specifications for each procurement of goods or services by the Municipality.

(2) Specifications -

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) must where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;

(f) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless in exceptional cases where it is essential that the goods to be procured need to be specifically named. Reasons motivating this must be recorded in writing and where possible or applicable be stipulated in the specifications in the bidding documents; and

(g) must be approved by Chairperson of the Bid Specification Committee prior to publication of the Invitation for bids in terms of paragraph 22 of this Policy.

(3) The Bid Specification Committee must be composed of –

(a) the director and one or more officials from the department requiring the goods or services;

(b) at least one Supply Chain Management Practitioner of the Municipality; and

(c) may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the Bid Specification Committee, or a director of such a corporate entity, may bid for any resulting contracts.

29. BID EVALUATION COMMITTEES

(1) The Accounting Officer or his/her delegate appoints the Bid Evaluation Committee on an ad hoc basis to -

(a) evaluate bids in accordance with:
  (i) the specifications for a specific procurement; and
  (ii) the points system set out in terms of the Preferential Procurement Regulations, 2017 and such other legislation as may be applicable.

(b) evaluate each bidder’s ability and capacity to execute the contract;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(d) submit to the Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.

(2) The Bid Evaluation Committee must as far as possible be composed of -

(a) a senior manager;
(b) officials from departments requiring the goods or services; and
(c) at least one Supply Chain Management Practitioner of the Municipality.

30. BID ADJUDICATION COMMITTEES

(1) The Bid Adjudication Committee*,* to be appointed as a Standing Committee by the Accounting Officer must -

(a) consider the report and recommendations of the Bid Evaluation Committee; and either
  (i) depending on its delegations, make a final award or recommendation to the Accounting Officer to make the final award; or
  (ii) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

(2) The Bid Adjudication Committee must consist of at least four senior managers of the Municipality and must include -

(a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;

(b) directors of the Municipality;

(c) the Head: Expenditure of the Municipality;

(d) at least one Senior Supply Chain Management practitioner who is an official of the Municipality; and

(e) if deemed necessary and appointed in writing by the Accounting Officer for a specific tender an internal technical expert in the relevant field if such an expert is available.

(3) The Accounting Officer must appoint the chairperson of the Bid Adjudication Committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting the Evaluation Committee, may be a member of a Bid Adjudication Committee.

(5) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid -
- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

- (b) notify the Accounting Officer.

(6) The Accounting Officer may -
- (a) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph 5; and
- (b) if the decision of the Bid Adjudication Committee is rejected, refer the decision back to that committee for reconsideration.

(6) The Accounting Officer may, at any stage of a bidding process, refer any recommendation made by the Evaluation Committee or the Adjudication Committee back to that committee for reconsideration of the recommendation.

(7) As required by Section 114 of the Act, if a tender other than the one recommended in the normal course of implementing this Policy is approved, the Accounting Officer must, in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation. This does not apply if a different tender was approved in order to rectify the irregularity. The accounting officer must comply with section 114 of the Act within 10 working days.

(8) Only the Accounting Officer or directors of the municipality may cancel a bid. A written memorandum must be submitted to SCM clearly stating the reasons for the cancellation.

(9) All cancellations of tenders must be reported to the Bid Adjudication Committee in writing.

(10) The information as stipulated in the MFMA Circular No. 83 with regard to the successful and unsuccessful bidders must be published on the eTender Publication Portal within seven (7) working days after the award was made.

31. PROCUREMENT OF BANKING SERVICES

(1) Banking services -
  (a) must be procured through competitive bids;
  (b) must be consistent with Section 7 or 85 of the Act; and
  (c) must be for a period of five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22 (1). Bids must be restricted to banks registered in terms of the Banks Act, No. 94 of 1990.

32. PROCUREMENT OF IT-RELATED GOODS OR SERVICES

(1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT-related goods or services through a competitive bidding process.

(2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The Accounting Officer must notify SITA together with a motivation of the IT needs if

  (a) the transaction value of IT-related goods or services required in any financial year will exceed R50 million (VAT included); or
  (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

(4) If a SITA comment on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to Council, the National Treasury, the Provincial Treasury and the Auditor General.

33. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

(1) Goods or services may be procured under contract secured by another organ of State, but only if -

(a) the contract has been secured by that other organ of State by means of a competitive bidding process applicable to that organ of State;
(b) there is no reason to believe that such contract was not validly procured;
(c) there are demonstrable discounts or benefits to do so; and
(d) that the other organ of State and the provider have consented to such procurement in writing.

(2) Subparagraphs (1) (c) and (d) do not apply if -

(a) a municipal entity of the Municipality procures goods or services through a contract secured by the Municipality; or
(b) the Municipality as the parent Municipality procures goods or services through a contract secured by the entity.

34. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

(1) The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

35. ROSTER SYSTEM

A Roster System may be applied for a list of pre-approved service providers, suppliers, contractors and/or consultants subject to the development and adoption of a Roster System Policy containing the following:

(1) Roster scope for service providers, suppliers, contractors and/or consultants
(2) Registration of service providers, suppliers, contractors and/or consultants
(3) Qualification to be registered on the Roster System Database
(4) Process of selection and appointment on the Roster System Database

36. PROUDLY SOUTH AFRICA CAMPAIGN

The Municipality supports the Proudly SA Campaign in its procurement of goods and services to the extent that, all things being equal, preference is given to procuring local goods and services from:

(1) Firstly, suppliers and businesses within the municipal district of Mossel Bay;
(2) Secondly, suppliers and businesses within the Eden District Municipal area
(3) Thirdly, suppliers and businesses within the Western Cape province
(4) Fourthly, suppliers and businesses within the rest of the Republic of South Africa

37. APPOINTMENT OF CONSULTANTS

(1) The Municipality should consult the National Treasury's instructions in respect of the appointment of consultants.

(2) Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the Accounting Officer cannot be reasonably expected either to train or to recruit people in the time available.

(3) If transfer of knowledge and skills or training is an objective, it should be specifically outlined. The terms of reference or specifications should indicate the objectives, nature, scope and goals of the training programme, including details on trainers and trainees, skills to be transferred, time frames and monitoring and evaluation arrangements to enable consultants to estimate the required resources.

(4) As consultant services are specialised types of services, specifications for procurement should be drafted on a case-by-case basis depending on the nature and the type of consulting work under consideration.

(5) Specifications should take into account production of documents where copy right, patents/ownership is concerned when drafting documentation of this nature. Copyright, patent right or ownership shall be vested in the Municipality. Evaluation criteria should include:

    (a) Consultant's relevant experience;
    (b) Quality of the methodology;
    (c) Qualifications of key personnel; and
    (d) Transfer of skills and knowledge (if applicable)

(6) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of:

- (a) All consultancy services provided to an organ of State in the last 5 years
- (b) Any similar consultancy services provided to an organ of State in the last 5 years.

(7) The work undertaken by a consultant should be regulated by a contract and/or Service Level Agreement. The relationship between the Municipality and the Consultant will be one of purchaser/provider and not employer/employee. The Accounting Officer or his/her delegated official is, however, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard.

(8) The appointment of consultants shall be done in accordance with applicable Supply Chain Management legislation, regulations and this policy. The procurement method selection will be determined by the scope of the project, the quality of the service and complexity of the project.

(9) A needs analysis must be done and the need for consultants must be linked to the strategic objective of the relevant project. Issues that should be discussed and clarified are:

- (a) The need for a consultant;
- (b) Whether it would be a once-off or recurrent service;
- (c) Will any skills or knowledge transfer be required.

(10) While the specific rules and procedures to be followed for selecting consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the Accounting Officer‘s/authority‘s policy on the selection process:

- (a) the need for high-quality services;
- (b) the need for economy and efficiency;
- (c) the need to give qualified consultants an opportunity to compete in providing the services;
- (d) the importance of transparency in the selection process.

(11) Consultants should not be hired under the following circumstances:

- (a) A firm, which has been engaged by the AO to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, should be disqualified from subsequently providing goods or works or services related to the initial assignment (other than a continuation of the firm‘s earlier consulting services as described below) for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor‘s obligations under a turnkey or design-and-build contract;

(b) Consultants or any of their affiliates should not be hired for any assignment which, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets should not purchase, nor advise purchasers of such assets.

38. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESSES

(1) The Accounting Officer or a senior official of the Municipality to whom the Accounting Officer has delegated the authority in writing may -

(a) Dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only -

(i) in an emergency as defined in paragraph 1 of this Policy;
(ii) if such goods or services are produced or available from a single provider only;
(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
(iv) acquisition of animals for zoos and/or nature and game reserves; or
(v) exceptional case where it is impractical or impossible to follow the official procurement processes.

(b) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs 38(1)(a) and (b) above and report them to the next meeting of the Council and include as a note to the annual financial statements.

(3) Subparagraph 38(2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this Policy.

(4) In case of emergencies, the following procedure should be followed:

(a) telephonic approval should be obtained from the SCM unit as well as the Director of the department requiring the goods or services;

(b) written recommendations must be obtained within 3 (three) working days from SCM as well as the relevant Director; and

(c) final approval has to be obtained from the Accounting Officer, before an order will be issued.

(5) A Deviation process may be followed in the following cases:

(a) Where the Municipality followed a competitive bidding process and for Tenders no bids were received.

(b) Where the Municipality followed a competitive bidding process for Formal Written Quotations and no quotations were received.

(c) When a Deviation process is followed in terms of paragraphs (a) and (b) above the same specification must be used as in the original Tender or Formal Written Quotation.

39. UNSOLICITED BIDS

(1) In accordance with Section 113 of the Act the Municipality has no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The Accounting Officer may, however, decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service or proposal offered in terms of the bid is a demonstrably or proven unique, innovative or valuable concept; and/or
- (b) the product or service or proposal will be exceptionally beneficial, or have exceptional cost advantages to the Municipality;
- (c) the bidder who made the bid is the sole provider of the product or service or is the only proposer of the concept; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.

(3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph 39(2) of this Policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with -

- (a) reasons as to why the bid should not be open to other competitors;
- (b) an explanation of the potential benefits if the unsolicited bid is accepted; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) All written comments received pursuant to subparagraph 39(3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant Provincial Treasury for comment.

(5) The Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.

(6) A meeting of the Adjudication Committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the Adjudication Committee must take into account -

- (a) any comments submitted by the public; and

(b) any written comments and recommendations of the National Treasury or the Provincial Treasury.

(8) If any recommendations of the National Treasury or the Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

(9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 days of the submission.

(10) Unsolicited bids for the purchase and/or development or renting of municipal land or fixed property of commercial value as defined in paragraph 1 of this Policy will not be considered.

40. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

(1) The Accounting Officer must

(a) take all reasonable steps to prevent abuse of the Supply Chain Management System;

(b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Supply Chain Management Policy, and when justified

(i) take appropriate steps against such official or other role player; or
(ii) report any alleged criminal conduct to the South African Police Service.

(c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

(d) reject any bid from a bidder -

- (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other Municipality or municipal entity, are in arrears for more than three months; or
- (ii) who, during the last five years, has failed to perform satisfactorily on a previous contract with the Municipality; or any other organ of State after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

(f) cancel a contract awarded to a person if -

- (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
- (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) reject the bid of any bidder if that bidder or any of its directors -

- (i) has been found guilty by a Court of Law or a structure established by Council or the Accounting Officer for investigating or the arbitration of related to abuses of the Supply Chain Management System of the Municipality or has committed any improper conduct in relation to such system;
- (ii) has been convicted for fraud or corruption during the past five years;
- (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- (iv) has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act, No 12 of 2004.

(h) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulation, 2017 which will effect of has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the stipulations as contained in the said Regulation must be complied with.

(2) The Municipality shall ensure that, where possible, fronting is identified before a contract is awarded and act accordingly. Where, after an award of a contract was made and it becomes evident that the award made was based on incorrect information constituting fronting, the appropriate action will be taken in accordance with all legal remedies available.

(3) The Accounting Officer must inform the National Treasury and the Provincial Treasury in writing of any actions taken in terms of subparagraphs 40(1)(b)(ii), (e) or (f) above.

41. CONTRACT MANAGEMENT

(1) The Accounting Officer must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.

(2) Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality and the contractors) meet their respective obligations.

(3) All contracts entered into by the Municipality in the tender process referred to in paragraph 19 of this Policy must -

(a) be in writing;
(b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for –
  (i) the termination of the contract or agreement in the case of non- or under-performance;
  (ii) dispute resolution mechanisms to settle disputes between parties;
  (iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
  (iv) any other matter that may be prescribed.
(c) include the General Conditions of Contract as prescribed by National Treasury.
(d) specify the duration of the contract;
(e) specify the payment terms in respect of the goods or service supplied;
(f) be monitored by the Directorate of the Municipality which requested the goods or service to ensure that all the contract requirements are met.

(4) Unauthorised deviations or breaches of the contract as in paragraph 41(1)(d) above by the supplier or service provider must be reported to the Head: Legal Services for initiating

appropriate action as well as to the SCM Unit which must enter the details in a register for the recording of such deviations and breaches.

(5) Copies must be made of original signed contracts entered into in the course of the implementation of this Policy and the original document must be forwarded to the SCM Unit for safekeeping or filing in the Documentation Centre of the Municipality together with the bid committee documentation related to the contract.

(6) Contracts, with the exception of transversal contracts, may not be expanded or varied by more than 20% for constructions related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Anything above the mentioned thresholds must be reported to council.

(7) Any expansion or variation in excess of the thresholds stated above must be dealt within terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment of the contract.

42. PERFORMANCE MANAGEMENT

(1) The head of the municipal department which required the goods or a service in terms of a competitive bidding process must ensure that the goods had been delivered or the service completed according to the Municipality’s quality and other requirements as specified in the relevant bid documentation.

(2) In the case of goods and services supplied in response to a quotation invited by the Municipality the head of the client department or section of the Municipality which requested the goods or service must certify on the supplier’s invoice that the goods or service had been supplied in accordance with the Municipality’s requirements before payment is made.

(3) In the case of goods or services procured through a tender process as specified in terms of paragraph 19 of this Policy, the head or section of the relevant department must within a 30 (thirty) working days of the final delivery of the required work submit a written report to the Manager of Supply Chain Management on the performance of the supplier.

(4) The report must state -

(a) whether or not the performance of the supplier was satisfactory in terms of adherence to specifications and delivery or completion schedules, product or service quality and quality of workmanship;

(b) include details, supported by copies of any written notifications regarding service delivery given to the supplier.

(c) include a recommendation on any further action to be taken against the supplier in terms of paragraph 43 of this Policy.

43. PROCEDURES IN EVENT OF NON- OR POOR PERFORMANCE OF SERVICE PROVIDERS, CONTRACTORS AND SUPPLIER/SERVICE PROVIDERS

(1) Non-performance applicable to service providers and supplier/service providers

These instructions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

(2) Delivery of goods and performance of service contracts:

(a) Delivery of the goods and performance of services shall be made by the supplier/service provider in accordance with the time schedule prescribed by the Municipality in the contract.

(b) If at any time during the performance of the contract, the supplier/service provider or its subcontractor(s) should encounter problems that delays timely delivery of the goods or performance of services, the supplier/service provider shall promptly notify the Municipality in writing of the fact of the delay, its likely duration and its cause(s).

(c) If the supplier/service provider or its subcontractor(s) does not notify the Municipality in writing of delays in delivery and goods or performance of services and delivery of the goods or performance of services does not occur as agreed upon, the Municipality shall within 24 hours after the agreed upon delivery period has lapsed:

(i) Issue a final notification by registered mail indicating the action to be taken in terms of the contract conditions unless the supplier/service provider complies with the contract conditions and delivers satisfactory services/supplies within a specified reasonable time.

(ii) Such time should be decided upon by the Accounting Officer or the Chief Financial Officer and should not be less than seven (7) and not longer than fourteen (14) calendar days.

(iii) If the supplier/service provider still does not deliver the goods or perform the service despite the final notification, the Municipality may, in addition to any contractual or other remedy, act against the supplier/service provider or elects to exercise the following:

1. Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
2. Cancel the contract and claim damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation (see (g) for termination);
3. Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender;
4. The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Mossel Bay Municipality for a period not exceeding two (2) years (also refer to (g)(6) and (7)) and afford the supplier/service provider, its shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000; and
5. Restrict the supplier/service provider, its shareholders and directors from obtaining business from any organ of state for a period not exceeding ten (10) years (see (g) (6) to (9)).

(d) If the supplier/service provider does NOTIFY the Municipality:

(i) As soon as practical after receipt of the supplier /service provider's notice, the Municipality shall evaluate the situation and may at its discretion extend the supplier /service provider's time for delivery or performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of the contract.

(ii) The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier/service provider's point of supply is not situated at or near the place where the goods are required, or the supplier/service provider’s services are not readily available.

(iii) Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider’s expense and risk, to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider’s expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier/service provider.

(e) Force Majeure

(i) Notwithstanding the provisions of paragraph (f) and (g), the supplier/service provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

(ii) If a force majeure situation arises, the supplier/service provider shall promptly notify the purchaser in writing of such condition and the cause thereof.

(iii) Unless otherwise directed by the purchaser in writing, the supplier/service provider shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

(iv) Except as provided for Force majeure, a delay by the supplier/service provider in the performance of its delivery obligations shall render the supplier/service provider liable to the imposition of penalties, unless an extension of time is agreed upon.

(v) ”Force majeure” means an event beyond the control of the supplier/service provider and not involving the supplier/service provider’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

(vi) The supplier/service provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

(f) Penalties:

(i) If the supplier/service provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Municipality shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance.

(ii) The penalty clause does not apply in the event of Force majeure.

(g) Termination for default:

(i) The Municipality, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier/service provider, may terminate this contract in whole or in part:

1. If the supplier/service provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the Municipality pursuant to paragraph (a);

2. If the supplier/service provider fails to perform any other obligation(s) under the contract; or

3. If the supplier/service provider, in the judgment of the Municipality, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

4. In the event that the Municipality terminates the contract in whole or in part, the Municipality may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier/service provider shall be liable to the Municipality for any excess costs for such similar goods, works or services. However, the supplier/service provider shall continue performance of the contract to the extent not terminated.

5. Where the Municipality terminates the contract in whole or in part:

   (i) The Municipality may decide to impose a restriction penalty on the supplier/service provider by prohibiting such supplier/service provider from doing business with the public sector for a period not exceeding 10 years (see (g) (6) to (9)) or
   (ii) The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Mossel Bay Municipality for a period not exceeding two (2) years (also refer to (g) (6) and (7)) and afford the supplier/service provider, its shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000.

6. If a Municipality intends imposing a restriction on a supplier/service provider or any person associated with the supplier/service provider, the supplier/service provider will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier/service provider fail to respond within the stipulated fourteen (14) days the Municipality may regard the supplier/service provider as having no objection and proceed with the restriction.

7. Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.

8. If a restriction is imposed, the Municipality must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

   i. the name and address of the supplier/service provider and / or person restricted by the Municipality;
   ii. the date of commencement of the restriction
   iii. the period of restriction; and

iv. the reasons for the restriction. These details will be loaded in the National Treasury's central database of supplier/service providers or persons prohibited from doing business with the public sector.

(3) If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

(4) Construction and construction related contracts

(a) These instructions are applicable to professional services related to the building and construction industry, unless otherwise indicated in the bidding documents.

(b) In case of non- or poor performance, the Municipality shall within 24 hours after becoming aware of the situation:

(i) Issue a final notification by registered mail indicating the action to be taken in terms of the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory works within a specified reasonable time.
(ii) Such time should be decided upon by the Accounting Officer and should not be less than seven (7) and not longer than fourteen (14) calendar days.

(c) If the supplier/service provider–still does not deliver the goods or perform the service despite the final notification, the Municipality may, in addition to any contractual or other remedy, act against the supplier/service provider or elect to exercise the following:

(i) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(ii) Cancel the contract and claim damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.

(iii) Impose a financial penalty not more severe than the theoretical financial preference associated with the claim which was made in the tender,

(iv) Restrict the supplier/service provider, its shareholders and directors from obtaining business from the Mossel Bay Municipality for a period not exceeding two (2) years and afford the supplier/service provider, its shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000 (also refer to (g)(6) and (7)); and

(v) Restrict the supplier/service provider or service provider, its shareholders and directors from obtaining business from any organ of state for a period not exceeding ten (10) years (see (g) (6) to (9)).

PART 3

LOGISTICS, DISPOSAL AND RISK MANAGEMENT AND PERFORMANCE MONITORING

44. LOGISTICS MANAGEMENT

(1) The Accounting Officer must establish an effective system of logistics management which must include –

(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical;

(b) the coding of items to ensure that each item has a unique number;

(c) the setting of inventory levels that includes re-ordering; minimum and maximum levels and lead times wherever goods are placed in stock;

(d) the placing of manual or electronic orders for all acquisitions other than those from petty cash;

(e) before payment is approved, certification by the responsible delegated employee that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

(f) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;

(g) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(h) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services;

(i) taking stock on a regular basis, identifying discrepancies and reporting such discrepancies immediately to the relevant delegate; and

(j) compilation and submission of financial year end information as required.

45. DISPOSAL MANAGEMENT

(1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, immovable property, subject to Sections 14 and 90 of the Act, which must stipulate the following:

(2) The disposal of assets must -

(a) be by one of the following methods -

- (i) transferring the asset to another organ of State in terms of a provision of the Act enabling the transfer of assets;
- (ii) transferring the asset to another organ of State at market -related value or, when appropriate, free of charge;
- (iii) selling the asset, excluding immovable property by way of an auction or a competitive bidding process; or
- (iv) destroying the asset;

(b) provided that -

- (i) immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise;
- (ii) movable assets may be sold at market-related prices either by way of written quotations, a competitive bidding process or auction, whichever is the most advantageous;
- (iii) in the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
- (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

(c) furthermore ensure that -

  (i) immovable property is let at market-related rates except when the public interest or the plight of the poor demands otherwise; and
  (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and

(d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

(3) that the transfer or permanent disposal of assets and the granting of rights shall be as follows:

a) Non-exempted capital assets shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.
b) Exempted capital assets shall be transferred strictly in accordance with Chapter 3 of the Municipal Asset Transfer Regulations.
c) The granting of rights by the Municipality, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations.
d) The transfer or permanent disposal of assets and the granting of rights shall be done in terms of the Municipality's Asset Management Policy.
e) The transfer or permanent disposal of, and the granting of rights in terms of, immovable capital assets shall be dealt with separately in the Municipality's Asset Management Policy.

46. RISK MANAGEMENT

(1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.

(2) Risk management must include -

(a) the identification of risks on a case-by-case basis;
(b) the allocation of risks to the party best suited to manage such risks;
(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

47. PERFORMANCE MONITORING

(1) The Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the desired objectives were achieved.

(2) Issues to be reviewed include:
- (a) Compliance to norms and standards;
- (b) Cost-efficiency of the supply chain management process; and
- Whether supply chain practices are consistent with the Government's broader policy focus.

PART 4

OTHER MATTERS

48. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

(1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.

49. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

(1) No award may be given to a person -
- (a) who is in the service of the State; or
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the State; or
- (c) who is an advisor or consultant contracted with the Municipality or municipal entity.

(2) As no award may be given to a person who is in the service of the state, it is expected of all prospective bidders to declare their interests in the prescribed forms in bidding documents.

50. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

(1) The notes to the annual financial statements must disclose particulars of any award of more than R2 000 (VAT included) to a person who is a spouse, child or parent of a person in the service of the State, or has been in the service of the State in the previous twelve months, including -

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the State; and
- (c) the amount of the award.

(2) All Supply Chain Management officials have to disclose and declare related parties on an annual basis.

(3) All key management personnel have to disclose and declare related parties on an annual basis.

(4) All members of Bid Committees have to declare their interest and disclose and declare related parties for each and every bid that they serve on as a member of a Bid Committee.

51. ETHICAL STANDARDS

(1) A code of ethical standards is hereby established for officials and other role players in the Supply Chain Management System in order to promote -

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) An official or other role player involved in the implementation of the Supply Chain Management Policy:

- (a) must treat all providers and potential providers equitably;

- (b) may not use his or her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350 (VAT included);

(d) notwithstanding subparagraph 51(2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) must be scrupulous in his or her use of property belonging to the Municipality;

(h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

(i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
  (i) any alleged fraud, corruption, favouritism or unfair conduct;
  (ii) any alleged contravention of paragraph 51(1) of this Policy; or
  (iii) any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraph 51(2)(d) and (e) -
  (a) must be recorded in a register which the Accounting Officer must keep for this purpose;
  (b) by the Accounting Officer must be made to the Mayor of the Municipality who must ensure that such declarations are recorded in the register.

(4) The National Treasury’s code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

(5) The National Treasury Code of Conduct for Supply Management Practitioners, attached as Annexure A, is adopted by the Municipality and shall apply mutatis mutandis to and be binding on supply chain management practitioners and other role players involved in the supply chain management of the Municipality.

(6) A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with Schedule 1 (Code of Conduct for Councillors) and Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act, No 32 of 2000.

52. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

(1) No person who is a provider or prospective provider of goods or services, or recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant -

- (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to -
  - (i) any official; or
  - (ii) any other role player involved in the implementation of the Supply Chain Management Policy.

(2) The Accounting Officer must promptly report any alleged contravention of subparagraph 52(1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the Public Sector.

(3) Subparagraph 52(1) does not apply to gifts less than R350 (VAT included) in value.

53. SPONSORSHIPS

(1) The Accounting Officer must promptly disclose to the National Treasury and the Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is -

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

54. OBJECTIONS, COMPLAINTS AND APPEALS

Persons aggrieved by decisions or actions taken in the implementation of this Supply Chain Management policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

Persons who wish to lodge an appeal against the decision taken, may do so in terms of Section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 which determines that a person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the accounting officer within 21 days of the date of the notification of the decision.

55. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

(1) The Accounting Officer must appoint an independent and impartial person or persons, not directly involved in the supply chain management processes -

(a) to assist in the resolution of disputes between the Municipality and other persons regarding –
   (i) any decisions or actions taken in the implementation of the Supply Chain Management system; or
   (ii) any matter arising from a contract awarded in the course of the Supply Chain Management system; or

(b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) An entity under the sole or shared control of the Municipality may for purposes of subparagraph 55(1) appoint the same person.

(3) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(4) The person appointed must -
  (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

(5) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if -
  (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  (b) no response is forthcoming within 60 days.

(6) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(7) This paragraph must not be read as affecting a person's rights to approach a court at any time.

56. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

(1) If a service provider acts on behalf of a Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:
  (a) a cap on the compensation payable to the service provider; and
  (b) that such compensation must be performance based.

57. CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

(1) The Construction Industry Development Board (CIDB) has been established by government to promote the uniform application of policy to the construction industry.

  (a) When calling for construction related bids -
    (i) the same Bid Committee system as for all other bids will be applicable;
    (ii) the prescribed CIDB (uniformity standard bid documents) may be utilised;
    (iii) only Contractors registered with the CIDB may be used;

- (iv) all tenders must be advertised on the CIDB i-tender system;
- (v) consultants used in the procurement process must adhere to the CIDB legislation;
- (vi) consultants used in the procurement process are prohibited to provide goods, works or services related to the project; and
- (vii) subcontract arrangements and joint venture initiatives must be aligned to CIDB guidelines and requirements.

(b) When evaluating construction related bids -

- (i) the validity of the contractor’s registration and grading on the CIDB website must be verified;
- (ii) the contractor’s registration will be verified and has to be valid on the day the Bid Evaluation Committee evaluates the bid;
- (iii) the bidder’s documents must be assessed against the prescribed CIDB contractor requirements; and
- (iv) calculations for joint venture gradings must be done according to the CIDB prescriptions.

(2) Other matters -

- (a) all projects approved by the Municipality must be registered with the CIDB;
- (b) contracts registered on the i-tender systems must be updated and completed;
- (c) non-performance and non-compliance of contractors must be reported to the CIDB as per the CIDB guidelines; and
- (d) Sub-contracting arrangements and joint-venture initiatives must be aligned to the CIDB guidelines and requirements.

58. ARCHIVE OF BIDDING DOCUMENTS

(1) Bidding documents have to be kept in a safe.

(2) The following will be applicable before the destruction of any documents:

- (a) Formal written quotation documents have to be kept for a minimum of five (5) years;
- (b) The documents for tenders that were awarded for a period of less than one (1) year must be kept for a minimum of five (5) years;

(c) The documents for tenders that were awarded for a period of more than one (1) year must be kept for a minimum of six (6) years or for a period of six (6) years after the completion of the project;

(d) No documents can be destroyed without the written permission of the relevant director; and

(e) No documents of successful bidders may be destroyed.

59. MANAGEMENT OF EXPANSION OR VARIATION OF ORDERS AGAINST THE ORIGINAL CONTRACT

(1) Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

(2) Anything beyond the abovementioned thresholds in (1) must be reported to council.

(3) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

(4) The contents of paragraph (3) are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

60. CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS

(1) Section 33(1) of the MFMA prescribes processes that must be followed when a contract will impose financial obligations on the municipality beyond three years.

(2) Section 33(2) of the MFMA however states that these processes do not apply to contracts in terms of which the financial obligation of the municipality is below a prescribed value, for this Municipality, this value is determined at R2 million per year, VAT included.

(3) If a bid has been awarded for three years, and the contract period is ending, the award of this bid may be extended for a period of six months and if it needs to be extended for longer, it can only be done with the approval of Council. This extension may only be done in the following instances:
  (a) If a new bid has been invited, but can for some reason not be awarded in time;
  (b) If practical implementation problems of the new bid occurs; or
  (c) If the nature of the contract ending is as such that it has to be handed over to a new service provider or supplier over a period of time.

61. COMMENCEMENT

This revised policy takes effect on 1 July 2018

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DOCUMENT AND VERSION CONTROL

Date: **May 2018**

Summary: This document describes the Supply Chain Management policy that will be applicable to the Mossel Bay Municipality, with effect from

1 July 2018

Signature: .... Date: 31/05/2018
Municipal Manager
(Accounting Officer)

Signature: ......Levendal.. Date: 31/05/2018
Executive Mayor

ANNEXURE A

Mossel Bay Municipality
SUPPLY CHAIN MANAGEMENT POLICY

NATIONAL TREASURY CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS

In accordance with the Regulations for Supply Chain Management issued in terms of section 168 of the Municipal Finance Management Act, 2003 (MFMA), National Treasury is required to issue a Code of Conduct for Supply Chain Management Practitioners that should be adhered to by all officials and other role players involved in supply chain management. The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

1. General Principles

The Mossel Bay Municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. The position of a supply chain management (SCM) practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and National Treasury Regulations and Guidelines. They should ensure that public resources are administered responsibly.

Practitioners should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

2. Conflict of interest

An official or other role player involved with supply chain management

(a) must treat all providers and potential providers equitably;

(b) may not use his or her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

(d) must declare to the accounting officer details of any reward, gift favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality or municipal entity;

(f) must immediately withdraw from participating. in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

(h) should not place him/herself under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties; and

(i) should not take improper advantage of their previous office after leaving their official position.

3. Accountability

(a) Practitioners are accountable for their decisions and actions to the public.

(b) Practitioners should use public property scrupulously. Only accounting officers or their delegates have the authority to commit the government to any transaction for the procurement of goods and/or services.

(c) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

(d) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

(e) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:

  (i) any alleged fraud, corruption, favouritism or unfair conduct;
  (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and any alleged breach of this code of conduct.
  (iii) Any declarations made must be recorded in a register that the accounting officer must keep for this purpose.

4. Openness

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

5. Confidentiality

(a) Any information that is the property of the government or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

(b) Matters of confidential nature in the possession of supply chain practitioners should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions should also apply after separation from service.

6. Bid Evaluation / Adjudication Committees

Bid evaluation / adjudication committees should regulate supply chain management on behalf of the institution in an honest, fair, impartial, transparent cost-effective and accountable manner in accordance with the Accounting Officer's directives/delegated powers.

The evaluation / adjudication committee may be authorised to deal with all supply chain management matters and finalise bids / quotations in accordance with the directives / delegated powers of the accounting officer.

Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

All members of bid adjudication committees should be cleared at the level of “CONFIDENTIAL” and should be required to declare their financial interest annually.

No person should interfere with the supply chain management system on an institution; or amend or tamper with any bid after its submission.

7. Combative Practices

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

(a) Suggestions to fictitious lower quotations;
(b) Reference to non-existent competition;
(c) Exploiting errors in bids;
(d) Soliciting bids from bidders whose names appear on the National Treasury’s database of persons prohibited from doing business with the public sector.

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ANNEXURE B: INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT

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1. Scope

1.1. This is the Mossel Bay Municipality policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management.

1.2. The scope includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

a) the storage of goods and equipment following their delivery to the Mossel Bay Municipality which are stored and issued to contractors or to employees;
b) the disposal or letting of land;
c) the conclusion of any form of land availability agreement;
d) the leasing or rental of moveable assets; and
e) public private partnerships.

2. Terms, Definitions and Abbreviations

2.1. Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply –

“agent”: person or organization that is not an employee of Mossel Bay Municipality that acts on the Mossel Bay Municipality’s behalf in the application of this document

“**authorised person**”: the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

“conflict of interest”: any situation in which:

a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,

b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or

c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

“contract manager”: person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer’s point of view

“family member”: a person’s spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

“framework agreement”: an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

“gate”: a control point at the end of a process where a decision is required before proceeding to the next process or activity “**gateway review**”: an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

“**gratification**”: an inducement to perform an improper act

“**infrastructure delivery**”: the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

“**infrastructure procurement**”: the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

“**maintenance**”: the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

“**operation**”: combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

“**order**”: an instruction to provide goods, services or any combination thereof under a framework agreement

“**organ of state**”: an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

“**procurement document**”: documentation used to initiate or conclude (or both) a contract or the issuing of an order

“**principal**”: a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

“**standard**”: the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

“**working day**”: any day of a week on which is not a Sunday, Saturday or public holiday

2.2. Abbreviations

For the purposes of this document, the following abbreviations apply:

1.1.1.	CIDB:	Construction Industry Development Board
1.1.2.	SARS:	South African Revenue Services

3. General requirements

3.1. Delegations

3.1.1. The Council of the Mossel Bay Municipality hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

a) discharge the supply chain management responsibilities conferred on Accounting Officers in terms of Chapter 8 of the Local Government Municipal Finance Management Act of 2003 and this document;
b) maximise administrative and operational efficiency in the implementation of this document;
c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
d) comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

3.1.2. No departure shall be made from the provisions of this Policy without the approval of the Municipal Manager of the Mossel Bay Municipality.

3.1.3. The Municipal Manager shall for oversight purposes:

e) within 30 days of the end of each financial year, submit a report on the implementation of this Policy, to the Council of the Mossel Bay Municipality;
f) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council;
g) within 10 days of the end of each quarter, submit a report on the implementation of the Policy to the Executive Mayor; and
h) make the reports public in accordance with Section 21A of the Municipal Systems Act of 2000.

3.2. Implementation of the Standard for Infrastructure Procurement and Delivery Management

3.2.1. Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.

3.2.2. Pre-feasibility and feasibility reports are required on all infrastructure procurement above R50 million.

3.2.3. Stage 3 to 7 are required for infrastructure procurement above R50 million

3.3. Supervision of the infrastructure delivery management unit

3.3.1. The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer or relevant delegate in terms of Section 82 of the MFMA.

3.4. Objections and complaints

3.4.1. Persons aggrieved by decisions or actions taken in the implementation of this Policy, may lodge within 21 days of the decision or action, a written objection or complaint against the decision or action.

3.5. Resolution of disputes, objections, complaints and queries

3.5.1. The Accounting Officer or relevant delegate shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the and other persons regarding:

- i) any decisions or actions taken in the implementation of the supply chain management system;
- j) any matter arising from a contract awarded within the Mossel Bay Municipality's infrastructure delivery management system; or
- k) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

3.5.2. The designated person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3. The person appointed in terms of 3.5.1 shall:

- l) strive to resolve promptly all disputes, objections, complaints or queries received; and
- m) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.

3.5.4. A dispute, objection, complaint or query may be referred to the Provincial Treasury if:

- a) the dispute, objection, complaint or query is not resolved within 60 days; or
- b) no response is forthcoming within 60 days.

3.5.5. If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

4. Control framework for infrastructure delivery management

4.1. Assignment of responsibilities for approving or accepting end of stage deliverables.

4.1.1. The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

4.2. Gateway reviews

4.2.1. Gateway reviews for major capital projects above a threshold of R 50 million.
4.2.2. The Municipal Manager shall appoint a gateway review team in accordance with the provisions of clause 6.1.1 of the standard to undertake gateway reviews for major capital projects.
4.2.3. The requirements for a gateway review are as follows.

Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery

Stage			Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name		
0	Project initiation		The Director of his/ her delegate accepts the initiation report
1	Infrastructure planning		The Director of his/ her delegate approves the infrastructure plan
2	Strategic resourcing		The Director of his/ her delegate approves the delivery and / or procurement strategy
3	Pre-feasibility		The Director of his/ her delegate accepts the pre-feasibility report
	Preparation and briefing		The Director of his/ her delegate accepts the strategic brief
4	Feasibility		The Director of his/ her delegate accepts the feasibility report
	Concept and viability		The Director of his/ her delegate accepts the concept report
5	Design development		The Director of his/ her delegate accepts the design development report
6	Design documentation	6A Production information	The Director of his/ her delegate accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance
		6B Manufacture, fabrication and construction information	The contract manager accepts the manufacture, fabrication and construction information
7	Works		The Director of his/ her delegate certifies completion of the works or the delivery of goods and associated services
8	Handover		The owner or end user accepts liability for the works
9	Package completion		The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in accordance with the provisions of the contract The Director of his/ her delegate accepts the close out report

5. Control framework for infrastructure procurement

5.1. The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.

5.2. The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:

a) The Director of his/ her delegate shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard; or

b) The Bid Adjudication Committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard or alternatively make a recommendation to the Municipal Manager to award if the value exceeds R10 million.

5.3. The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

6. Infrastructure delivery management requirements

6.1. Institutional arrangements

6.1.1. Committee system for procurement

6.1.1.1. All the committee systems as stated in the policy will be applicable for infrastructure procurement

Table 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold

Activity		**Sub-Activity** (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 **PG1**	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Director or delegate
2*	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	Director or delegate
3	Solicit tender offers	3.2 PG3	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Bid Specification Committee Chairperson
		3.3 PG4	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	Director or delegate
4	Evaluate tender offers	4.2 PG5	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	Bid Evaluation Committee Chairperson
		4.7 PG6	Confirm recommendations contained in the tender evaluation report	Review recommendations of the Bid Evaluation Committee and refer back to Bid Evaluation Committee for reconsideration or make recommendation for award	Bid Adjudication Committee Chairperson
5	Award contract	5.3 PG7	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	Director or delegate
		5.5 GF1	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	Director or delegate
		6.4 **PG8A**	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	Director or delegate
		6.5 **PG8B**	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	Director or delegate
6	Administer contracts and confirm compliance requirements	6.6 **PG8C**	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage[21]	Approve amount of time and cost overruns up to the threshold	Director or delegate Above R200 000 Bid Adjudication Committee
		6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the	Approve amount of time and cost overruns above the threshold	Municipal Manager Inform Council of increase above the threshold

Activity		**Sub-Activity** (see Table 3 of the standard)		**Key action**	**Person assigned responsibility to perform key action**
			time for completion at award of a contract or the issuing of an order by more than 20%		
		6.8 **PG8E**	Obtain approval to cancel or terminate a contract	Approve amount	Director or delegate
		6.9 **PG8F**	Obtain approval to amend a contract	Approve proposed amendment to contract	Director or delegate

Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement

Activity		**Key action**	**Person assigned responsibility to perform key action**
1 **FG1**	Confirm justifiable reasons for selecting a framework contactor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	Director or delegate
3 **FG2**	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Bid Specification Committee Chairperson or Manager: Supply Chain Management
4 **FG3**	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	Director or delegate
6 **FG4**	Authorise the issuing of the order	Formally accept the offer in writing	Director or delegate

6.2. Developmental Procurement

6.2.1. The primary beneficiaries will be included in the Preferential Procurement Policy and will include at least the following:

6.2.1.1. Local emerging contractors / service providers and suppliers from previously disadvantaged individuals/communities who will be assisted with targeted contract opportunities to propel them to new heights.

6.2.1.2. Contractors must be registered with the CIDB to qualify for participation.

6.3. Use of another organ of state's framework agreement

6.3.1. The Mossel Bay Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so.

6.3.2. The Municipal Manager shall make the necessary application to that organ of state to do so.

6.4. **Insurances**

6.4.1. Contractors shall be required to take out all insurances required in terms of the contract.

6.4.2. The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by the Municipal Manager.

6.4.3. Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

Table 4: Minimum insurance cover

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural: R5,0 million other R3,0 million

6.4.4. The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed Director or delegate

6.4.5. SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

6.4.6. Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the in relation to the nature of the service that they provide.

6.4.7. The Mossel Bay Municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

6.4.8. Where payment is to be made in multiple currencies, either the contractor or the Mossel Bay Municipality should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

6.5. **Request for access to information**

6.5.1. Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the “requestor” should be referred to the Mossel Bay Municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of the Mossel Bay Municipality.

6.5.2. Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.